

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

MICHAEL J. KRIZ,

Plaintiff,

VS.

**12TH JUDICIAL DISTRICT BOARD OF
MENTAL HEALTH OF BOX BUTTE
COUNTY, et al.,**

Defendants.

4:05CV3254

ORDER

This matter is before the court on a document sent by the plaintiff. The document is titled “Motion for an immediate reply; response; and final decision be made referring to ‘Relief Requested’; on Page 8 of ‘File’ ‘Document’ Number 56 which is ‘First Amended Complaint under the Civil Rights Act, 42 U.S.C. 1983; the Americans with Disabilities Act; and Rehabilitation Act.’” The plaintiff, himself, mailed the document to the court. The document was received on April 16, 2008. However, the plaintiff is represented by counsel. Counsel has not sought or received leave to withdraw as counsel.

Accordingly, Matthew T. Knoblauch is still legal counsel for Mr. Kriz and has not been “relieved of applicable duties to the court, the client, and opposing counsel.” NERGenR 1.3(f). Federal Rule of Civil Procedure 11(a) states in pertinent part: “Every pleading, written motion, and other paper shall be signed by at least one attorney of record in the attorney’s individual name, **or, if the party is not represented by an attorney, shall be signed by the party.**” (emphasis added). Thus, it is clear that Rule 11 contemplates either self-representation or attorney representation, but not both by the same party in the same case. Additionally,

In a case in which counsel has been appointed, all further pleadings, motions, and other communications with the court shall be made exclusively through counsel, unless otherwise specifically permitted by the court. Any further pro se pleadings, motions or other communications submitted to the court may be (1) returned, unfiled, to the sending party or (2) forwarded to counsel for the sending party.

NEGenR 1.3(h).

In this litigation, the plaintiff has appointed counsel who has entered an appearance on the plaintiff's behalf. Therefore, in accordance with Rule 11, the attorney of record must sign all pleadings, motions and papers to be filed with the court for the plaintiff. The signature of the plaintiff's attorney is important because Rule 11 explains that by signing documents filed with the court, the attorney makes certain representations and warranties and risks exposure to sanctions for violations of Rule 11. Therefore, unless the court grants a motion to withdraw or substitute counsel enters an appearance or Mr. Kriz informs the court he wishes to proceed pro se, only Mr. Knoblauch may represent the plaintiff in this matter or file documents on the plaintiff's behalf. Accordingly, the court will forward the plaintiff's document to Mr. Knoblauch. Upon consideration,

IT IS ORDERED:

1. The Clerk of Court shall send the plaintiff's counsel the original document titled "Motion for an immediate reply; response; and final decision be made referring to 'Relief Requested'; on Page 8 of 'File' 'Document' Number 56 which is 'First Amended Complaint under the Civil Rights Act, 42 U.S.C. 1983; the Americans with Disabilities Act; and Rehabilitation Act.'"

2. The Clerk of Court shall send a copy of this order to:

Michael J. Kriz
Lincoln Regional Center
FMHS Building, Ward S-1
PO Box 94949
Lincoln, NE 68509-4949

DATED this 18th day of April, 2008.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge